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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,630	07/31/2001	Mark A. Sanner	PC10825A	6400

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PFIZER INC  
150 EAST 42ND STREET  
5TH FLOOR - STOP 49  
NEW YORK, NY 10017-5612

EXAMINER

ANDERSON, REBECCA L

ART UNIT PAPER NUMBER

1626

DATE MAILED: 04/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicati n No.

09/919,630

Applicant(s)

SANNER ET AL.

Examiner

Rebecca L Anderson

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-57 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-16, drawn to cdk inhibitors of the compounds of the formula 1, variously classified.
- II. Claims 17-20, drawn to compositions containing only cdk inhibitors as the active ingredient, variously classified.
- III. Claims 34-35, 38-39, 42-43, 46-47, 50-51, and 54-55, drawn to compositions containing multiple active ingredients, variously classified.
- IV. Claims 21-33, drawn to methods of treatment with compositions containing only one active ingredient, variously classified.
- V. Claims 36-37, 40-41, 44-45, 49-49, 52-53, and 56-57, drawn to methods of treatment with compositions containing multiple active ingredients, variously classified.

The above groups are identified as general areas. Accordingly, as groups they are independent or distinct as the compositions of groups II and III may utilize other active ingredients other than those of group I, the compositions of groups II and III differ materially in makeup (e.g. active ingredients), the products are capable of more than one use as is clearly evident from the instant specification and the methods of use may be practiced with products other than those of the instant product claims. The methods of group IV and V utilize materially different products.

Moreover, to not restrict would place a burden on the search and examination of the application.

The above groups themselves are inclusive of patentable distinct subject matter. Accordingly, along with the election of one of the above groups the following action is also taken.

Claims 1, 17, 21, 34, and 36 are generic to a plurality of disclosed patentably distinct species comprising for example, the compounds of (1) line 33 page 7, (2) line 15 page 7, (3), line 16 page 8, etc., (4) the composition of the compound of line 14, page 8 and risperidone, etc., (5) the method of treating hyperplasia with the compound of line 25 page 7, etc., (6) the method of treating schizophrenia with the compound of line 14 page 8 and ziprasidone, etc., (6) the method of treating polycystic ovary syndrome with the compound of line 8 page 8, etc.. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Upon the election of a single disclosed species, a generic concept inclusive of the elected species will be identified by the Examiner for examination along with the elected species.

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Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined and an election of a single species even though the requirement be traversed (37 CFR 1.143).

An attempt was made to present this requirement telephonically but did not result in an election being made.

### Conclusion


Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rebecca L. Anderson whose telephone number is (703) 605-1157. Mrs. Anderson can normally be reached Monday through Friday 7:00AM to 3:30PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Joseph McKane, can be reached at (703) 308-4537.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone numbers are (703) 308-1235 and (703) 308-0196.

A facsimile center has been established. The hours of operation are Monday through Friday, 8:45AM to 4:45PM. The telecopier numbers for accessing the facsimile machine are (703) 308-4242, (703) 305-3592, and (703) 305-3014.

  
\_\_\_\_\_  
Rebecca Anderson  
Patent Examiner  
Art Unit 1626, Group 1620  
Technology Center 1600

for   
\_\_\_\_\_  
Joseph McKane  
Supervisory Patent Examiner  
Art Unit 1626, Group 1620  
Technology Center 1600